

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

MICHAEL KEVIN LEDBETTER

PLAINTIFF

VS.

CIVIL ACTION NO. 3:06CV586WA

CHRISTOPHER EPPS

DEFENDANT

OMNIBUS ORDER

The parties appeared and participated in an omnibus hearing before the undersigned United States Magistrate Judge on the 29th day of January, 2007, at the James O. Eastland Federal Courthouse in Jackson, Mississippi. The Plaintiff appeared *pro se*, and the Defendants were represented by attorney John Clay. The court scheduled this hearing for the combined purposes of conducting a *Spears*¹ hearing, a scheduling/case management hearing, a discovery conference, and a pretrial conference. The court conducted this hearing in an attempt to insure the just, speedy and inexpensive determination of this *pro se* prisoner litigation. After due consideration of the issues involved in this case and the requests for discovery, the court does hereby find and order as follows:

1. JURISDICTION AND SUMMARY OF CLAIMS

Jurisdiction of this case is based upon 42 U.S.C. § 1983. The Plaintiff, Michael Ledbetter, claims that he suffers from keratoconus, a degenerative eye condition causing a deterioration in vision. He testified that the disease began a few months after he was incarcerated and affects both eyes. According to his testimony, he needs transplants in both eyes. He admitted to having surgery on his left eye on January 4, and he was told that only one eye could be treated at a time.

¹ See, Spears v. McCotter, 766 F.2d 179 (5th Cir. 1985).

After his surgery, Ledbetter claimed that he went to the medical unit, but was put in detention in the “hole.” This location makes it difficult for him to get proper treatment for his eyes, as he can’t see to fill out sick call slips and is having difficulty with his eye drops. Ledbetter testified that he was told that he would be moved back to the medical unit when they got room. In order to prevent further injury to his eyes, Ledbetter is seeking relief from his sentence.

2. DISCOVERY ISSUES and PENDING MOTION

Defense counsel will be required to provide Ledbetter with a copy of his medical records, both those from the institution’s medical department and from the outside surgeon who treated him. These records may be authenticated by affidavit for use in support of subsequent motions or at trial, where they may be admitted as a general exhibit. No testimony from a physician or other health care provider will be required at trial. At the Omnibus Hearing, Ledbetter signed a medical waiver for the release of his records from the outside doctor who performed his surgery. That waiver will be provided to defense counsel. There are no other discovery matters pending, except for those set forth herein, which will fairly and adequately develop the issues to be presented to the court, and no other discovery is deemed reasonable or appropriate considering the issues at stake in this litigation. *See* Federal Rules of Civil Procedure 26(b)(1).

3. TRIAL WITNESSES

The Plaintiff was instructed to submit to the court a list of inmate witnesses, not to exceed three to testify on his behalf at the trial of this matter. When a trial date is set, the court will order that subpoenas *ad testificandum* issue for those persons, as long as they are still in the custody of MDOC at the time.

The court advises the Plaintiff that he may call any free world witnesses, but that it will be his responsibility to secure any free world witnesses' voluntary presence at the trial of this cause, or at least 10 days prior to trial, he may submit to the clerk's office the \$40.00 witness fee for each witness along with the complete address of where the witness can be found, so that the United States Marshals Service can subpoena said witness for the Plaintiff.

4. PRETRIAL CONFERENCE, PRETRIAL ORDER, AND TRIAL SETTING

This conference shall stand in lieu of a pretrial conference, and this order shall stand in lieu of a pretrial order.

IT IS HEREBY ORDERED that the Defendants shall produce the records described above to the Plaintiff by February 28, 2007. The deadline for submitting motions in this matter is March 30, 2007. If necessary, the trial will be scheduled after that date.

IT IS SO ORDERED, this the 6th day of February, 2007.

S/Linda R. Anderson
UNITED STATES MAGISTRATE JUDGE